

1307/STN/RTI/16  
12/1/16

94/CS-16  
11/01/16  
11-01(A)/2016

1

**First Appeal under Section 19 of the Right to Information Act, 2005**

Ref. No. : RTI/P-537/(9462/15)/Appeal/16116

Dated : 09-01-2016

To

1st Appellate Authority Under RTI Act, 2005,  
Customs, Excise & Service Tax Appellate Tribunal,  
West Block 2, R.K. Puram,  
New Delhi - 110066

92  
11/01

11/01/16

**A. Contact Details :**

1.	Name of the Appellant	R.K. Jain
2.	Address	1512-B, Bhishm Pitamah Marg Wazir Nagar New Delhi-110003

**B. Details About RTI Request :**

1.	Particulars of the CPIO against whose order appeal is preferred	(a) Name	Shri V.P. Pandey CPIO
		(b) Address	Customs Excise & Service Tax Appellate Tribunal, West Block 2, R.K. Puram, New Delhi - 110066
2.	Date of submission of application (Copy of application attached)	14-09-2015	
3.	Details of the order appealed against	Letter ID No. 10-177/2016 dated 4-1-2016	
4.	Prayer or relief sought	See Prayer clause at the end	
5.	Last date for filing the appeal	4-2-2016	
6.	Whether Appeal in Time.	Appeal in time	
7.	Copies of documents relied upon by the applicant	1. Copy of RTI Application dated 14-9-2015. <b>(Annexure-1)</b> 2. Copy of PIO letter dated 22-9-2015. <b>(Annexure-2)</b> 3. Copy of Appellant letter dated 28-9-2015. <b>(Annexure-3)</b> 4. Copy of CPIO letter dated 4-1-2016. <b>(Annexure-4)</b>	

**BRIEF FACTS OF THE CASE**

- (1) That the appellant has filed an application dated 14-09-2015 (**Annexure – 1**) under Section 6 of the RTI Act, 2005 requesting for the following information:
- (A) *Please provide the list of the cases in which the orders were reserved by the Bench also consisting of Shri Ashok Jindal, Member (J), from 1-1-2014 till he was transferred from Mumbai Bench, but orders were not pronounced till 8-12-2014. Please indicate appeal No., name of parties and the date on which the orders were reserved.*
- (B) *Please provide the list of the cases in which operative part of the order was pronounced in open court by the Bench also consisting of Shri Ashok Jindal, Member (J), but detailed order has not been pronounced/issued till 8-12-2014. Please provide details of the appeal No., Name of Party, Name of Lawyer and the date on which the orders were reserved.*
- (C) *Please provide the list of cases of the CESTAT Bench, Mumbai, in which the orders were pronounced, passed or issued by the Bench also comprising Shri Ashok Jindal, Member (J) after 8-12-2014. Please provide details of the appeal No., Name of Party, Name of Lawyer and the date on which the orders were reserved.*
- (D) *Please provide the list of the cases in which cases are marked part-heard by the Bench also consisting of Shri Ashok Jindal, Member (J) from 1-1-2012 till the date of providing the information. Please also indicate the appeal No. and name of parties and the date on which it was marked part-heard.*
- (E) *Please provide the list of the Difference of Opinion Matters in which Shri Ashok Jindal, Member (J) has been nominated as a Third Member from 1-4-2013 till the date of providing the information. Please provide the appeal No., Name of the Parties and the date on which it was marked to Shri Ashok Jindal as Third Member. Please also indicate the Third Member cases which were pending as on 15-9-2015 either of Mumbai Bench or of Delhi Bench.*

- (F) Please provide copy of the Daily Diary maintained by SPS/Office of Shri Ashok Jindal, Member (J) from 1-1-2013 till the date of providing the information of the Mumbai Bench and the Delhi Bench.
- (G) Please provide copy of the Register/Diary of the Reserved Orders maintained by SPS/office of Shri Ashok Jindal, Member (J) at CESTAT, Mumbai from 1-1-2013 till the date it is maintained at CESTAT, Mumbai.
- (H) Please provide the list of pending cases in which the orders were reserved by the Bench also consisting of Ashok Jindal, Member (J) as on 15-9-2015 and orders are still to be pronounced as on 15-9-2015 at Mumbai Bench and at Delhi Bench. Please give the appeal Nos. and Name of Parties and the date on which the orders were reserved.
- (I) Please provide the list of pending cases in which the operative part of the orders has been pronounced by the Bench also consisting of Shri Ashok Jindal, Member (J) as on 15-9-2015 and reasoned orders are still not issued as on 15-9-2015 at Mumbai Bench and at Delhi Bench. Please give the appeal Nos. and Name of Parties
- (J) Please provide list of the appeal files which were with Ashok Jindal, Member (J), as on 11-9-2015 at Delhi Bench or at Mumbai Bench. Please also intimate the appeal Nos. and last Date of Hearing in each of the case.
- (K) Please provide the list of the appeal files of the Mumbai Bench which have been brought by Shri Ashok Jindal, Member (J) to Delhi on his transfer from Mumbai. Please also provide list of the files of the Mumbai Bench which have been forwarded to or received by Shri Ashok Jindal, Member (J) after 8-12-2014.

**Note:-Please provide point-wise information/response for each of above points.**

- (2) That the appellant vide para 5 of his said application has also made a declaration that the information sought for is not exempted under Section 8 or 9 of the RTI Act, 2005 and also stated that to the best of the knowledge of the appellant, the information pertains to the Office of the

CPIO in question.

- (3) That Shri V.P. Pandey, CPIO has deliberately and malafidely not provided complete and correct information as sought by the appellant. The appellant being aggrieved by the said order of the CPIO is filing the present appeal.

#### **GROUND OF APPEAL**

- (1) That the order in question of the CPIO is incorrect and illegal and contrary to the provisions and spirit of the RTI Act, 2005 hence liable to be set aside.
- (2) That the information sought by the appellant is not exempted under Section 8 or 9 or any other provisions of the RTI Act, 2005, therefore, there was no valid cause or reason or ground for not providing the information.
- (3) That the CPIOs & Deemed CPIOs of CESTAT, New Delhi, have erred in dealing with the RTI Application in question while the information sought relates to the Mumbai Bench of the CESTAT. Therefore, the CPIO, ce4s, New Delhi, may be directed to transfer that RTI Application to CPIO, CESTAT, Mumbai, as the information sought is held by him.
- (4) That the CPIO has erred in not providing the information to the appellant though as per the provisions of the RTI Act, the appellant is entitled to information as sought by him. Therefore, the order of the CPIO is liable to be set aside with direction to provide point-wise information to the appellant within time bound frame.
- (5) That the information sought is neither voluminous nor relate to older and larger period, thus could have easily been provided by the learned CPIO.
- (6) That as per proviso to Section 8(1) of the RTI Act, 2005, the information which can not be denied to the Parliament or the State Legislatures shall not be denied to any person. The information sought by the appellant in the subject application is the one which cannot be denied to the Parliament or the State Legislatures and hence it cannot be denied or refused to the appellant.
- (7) That a personal hearing may be granted to the appellant before deciding the present appeal.

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-5-

- (8) This is without prejudice to the right of the appellant to add, alter or modify any of the grounds of this appeal and adduce oral or written evidence at the time of hearing or till the appeal is disposed of.

**PRAYER**

Under the circumstances, the appellant prays as under:

- (a) That the Original Records may be summoned and perused.
- (b) That the order of the CPIO may be set aside and he may be directed to transfer the RTI Application in question to the CPIO, CESTAT, Mumbai.
- (c) That any other relief as the Appellate Authority deem fit and proper may also be ordered in favour of the appellant.
- (d) That a personal hearing may be granted to the appellant before deciding the appeal.



Signature of Appellant  
Telephone No. : 9810077977  
24651101  
Fax No. 011-24635243

Place : New Delhi  
Dated : 09-01-2016

o/c

ANNEXURE-1

6

Application under Section 6 of the Right to Information Act, 2005

Ref. No. :RTI/P-196/9462/15


Dated : 14-9-2015

To

Shri Vinay Kumar Mishra  
CPIO & Assistant Registrar,  
Customs Excise & Service Tax Appellate Tribunal,  
3rd, 4th & 5th Floor, Jai Centre,  
34, P.D.Mello Road, Poona Street, Masjid (E),  
Mumbai- 400009

1.	Name of the Applicant	R.K. Jain
2.	Address	1512-B, Bhishm Pitamah Marg Wazir Nagar New Delhi-110003
	(b) Phone Nos.	09810077977, 011-24651101, 011-24690707
	(c) Fax No.	011-24635243
3.	Whether a Citizen of India	Yes
4.	Particulars of Information	
	Details of information required	(A) Please provide the list of the cases in which the orders were reserved by the <u>Bench</u> also consisting of Shri Ashok Jindal, Member (J), from 1-1-2014 till he was transferred from Mumbai Bench, but orders were not pronounced till 8-12-2014. Please indicate appeal No., name of parties and the date on which the orders were reserved and date of pronouncement and date of despatch to parties.  (B) Please provide the list of the cases in which operative part of the order was pronounced in open court at Mumbai by the Bench also consisting of Shri Ashok Jindal, Member (J), but detailed order has not been pronounced/issued till 8-12-2014. Please provide details of the appeal No., Name of Party, Name of Lawyer and the date on which the operative order was pronounced and date on which reserved order was signed and date on which it was dispatched to parties.  (C) Please provide the list of cases of the CESTAT Bench, Mumbai, in which the orders were pronounced, passed or issued by the Bench also comprising Shri Ashok Jindal, Member (J) after 8-12-2014. Please

		<p>provide details of the appeal No., Name of Party, Name of Lawyer and the date on which the orders were reserved, pronounced signed and despatched to parties.</p> <p>(D) Please provide the list of the cases in which cases are marked part-heard by the Bench also consisting of Shri Ashok Jindal, Member (J) from 1-1-2012 at Mumbai and at New Delhi till the date of providing the information. Please also indicate the appeal No. and name of parties and the date on which it was marked part-heard and current status. In case it has been decided, provide order no and date.</p> <p>(E) Please provide the list of the Difference of Opinion Matters in which Shri Ashok Jindal, Member (J) has been nominated as a Third Member from 1-4-2012 till the date of providing the information. Please provide the appeal No., Name of the Parties and the date on which it was marked to Shri Ashok Jindal as Third Member at Mumbai and at New Delhi. Please also indicate such Third Member cases which were pending as on 15-9-2015 either of Mumbai Bench or of Delhi Bench with Shri. Ashok Jindal.</p> <p>(F) Please provide copy of the Daily Diary maintained by SPS/Office of Shri Ashok Jindal, Member (J) from 1-1-2013 till the date of providing the information of the Mumbai Bench and the Delhi Bench.</p> <p><b>Note:-Please provide pointwise information/ response for each of above points.</b></p>
5.	I state that the information sought is covered under RTI Act and does not fall within the exemptions contained in sections 8 or 9 or any other provisions of the Right to Information Act, 2005.	
6.	A Postal Order No. 32F 041407 for Rs. 10 towards payment of fee is enclosed herewith. You are requested to filling the name in which the Postal Order is payable.	
7.	As per Section 7 of the RTI Act, 2005 information is to be provided <b>within 30 days of the Application.</b>	

  
 Signature of Applicant  
 Telephone No. : 9810077977  
 011-24651101, 24690707  
 Fax No. 011-24635243

SP LODHI ROAD HD 110003  
 E04960049336IN  
 Counter No:2, CP-Code:FD  
 To: VINAY KUMAR MISHRA, CPIO  
 MUMBAI, PIN:400007  
 From: R. K. JAIN, NEW DELHI  
 Utr:55grams  
 Amt:69.00 (LFee:Rs.0.00), 15/07/2015 17:30  
 Tax:Rs.8.00<<Track on www.indiapost.gov.in>>



1057

Annexure-2

3

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, WEST  
ZONAL BENCH, 5<sup>th</sup> Floor, Jai Centre, 34, P. D'Mello Road, Masjid (East),  
Mumbai – 400 009**

ID/48/15-16

22.09.2015

To,

Shri.Rajendra Prasad,CPIO/Account Officer  
West Block No. 2, R.K. Puram,  
CESTAT,  
NEW DELHI – 110066.

Sir,

Sub: Transfer of RTI application – reg.  
(RTI/P-196/9462/15 dated 14.09.2015)

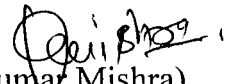
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Shri R.K. Jain has filed an RTI application RTI/P-196/9462/15 dated  
14.09.2015 received in this office on 18.09.15

Some of the points in the RTI application are pertain to CESTAT – Delhi.

In view of the above, the said RTI application is being transferred to your  
office under Section 6(3) of the RTI Act for providing information to the  
applicant.

Yours faithfully,

  
(Vinay Kumar Mishra)  
ASSISTANT REGISTRAR & PIO  
CESTAT, MUMBAI

Encl.: as above

Copy to : Shri R.K. Jain  
1512-B, Bhishm Pitamah Marg,  
Wazir Nagar, New Delhi – 110003.

- for information



o/c

Annexure-3

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**R.K. JAIN** M.Com., LL.B.

President, Excise and Customs Bar Association

Editor of

**EXCISE LAW TIMES & SERVICE TAX REVIEW**

and author of

Central Excise Law Guide; Central Excise Tariff of India;  
Central Excise Law Manual; Customs Tariff of India;  
Customs Law Manual; Excise & Customs Circulars  
& Clarifications; Excise & Customs Case Reference  
Service Tax Law Guide; Service Tax Handbook;  
Handbook of Duty Drawback on Goods &  
Services; Valuation under Central Excise; Hand-  
book of Foreign Trade Policy & Procedures

Customs Excise & Service Tax  
Appellate Tribunal  
West Block No.-2, R.K. Puram  
New Delhi-110066

**1512-B, Bhishm Pitamah Marg,**

**Wazir Nagar,**

**NEW DELHI - 110 003.**

**PHONE : 24693001-3004**

**MOBILE : 9810077977**

**Fax No. 011-24635243**

RTI/P-195/9462/15/R16731

28-09-2015

Shri Rajender Prasad  
CPIO & Accounts Officer  
Customs Excise & Service Tax Appellate Tribunal,  
West Block 2, R.K. Puram,  
New Delhi - 110066

**Sub: My RTI Application No. RTI/9462/15, dated 14/9/2015**

Dear Sir,

This refers to the letter ID No. 48/15-16 dated 22-9-2015 of Shri Vinay Kumar Mishra, Asstt. Registrar & PIO, CESTAT, Mumbai, transferring my aforesaid RTI application to you under section 6(3) of the RTI Act, 2005, for providing the information to me. You are requested to kindly provide the information at the earliest as under section 7(1) of the RTI Act, information is to be provided within 30 days of the RTI Application.

Thanking you;

Yours faithfully,



[R.K. Jain]

**F. No. 10-177 / CESTAT/CPIO-ND/VPP/2015**  
**Customs Excise and Service Tax Appellate Tribunal**  
**West Block No 2, R.K. Puram, New Delhi-110 066**

Dated. 04.01.2016

ID No. 10-177/2016

To,

**Sh. R.K. Jain**  
**1512-B, Bhishm Pitamah Marg,**  
**Wazir Nagar, New Delhi-110003**

Subject: Information under Right to Information Act 2005.

Sir,

Please refer to your RTI application No. **9462/15** Dt. **14.09.2015** and our ID No. **10-177** the information received from **AR (Customs)** containing **.1 page** is enclosed herewith for your reference please.

You are, Therefore, requested to please acknowledge the receipt and deposit Rs. - (@ 2/- per page) to this Tribunal by cash or DD in favour of Accounts Officer, CESTAT, New Delhi.

If the applicant is aggrieved, he may file an appeal under section 19 of RTI Act within thirty days before Hon'ble First Appellate Authority . CESTAT New Delhi.

  
 (V.P.Pandey)

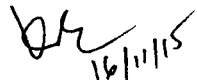
Central Public Information Officer

Encl:- As above

Copy to:- Computer section for website

30.9.2015 , the information sought by applicant i.e. the record of order reserve Member wise as asked vide point(A),B,C,D,E & F is not maintain by this Bench Registry.

Dated:16.11.2015

  
16/11/15  
Asstt. Registrar.

Copy to:-

✓ 1.CPIO.

2.O/c.

A.R.

~~16/11/15~~

**APPELLATE AUTHORITY  
UNDER RIGHT TO INFORMATION ACT, 2005  
CUSTOMS, EXCISE AND SERVICE TAX  
APPELLATE TRIBUNAL,  
WEST BLOCK 2, R.K. PURAM, NEW DELHI – 110 066**

**Date of Hearing/decision: 16.09.2016**

**Appeal No.10-91 (A)/CESTAT/FAA/VP/2015**

**Appeal No. 11-01(A)/CESTAT/FAA/VP/2016**

**CPIO, I.D. No. 10-177/CESTAT/CPIO-VPP/2015**

Sh. R.K.Jain

Appellant

Vs.


Sh. V.P. Pandey, Asst. Registrar/CPIO

Respondent

**ORDER** 141/16

The appellant submitted that after filing of the appeals some information has been provided and hence he is not pressing these appeals with a right to file fresh application, if needed.

2. The appeal is disposed of with the above direction.

  
(V. Padmanabhan)  
Appellate Authority 16/9/16

Copy to :-

1. Sh. R.K.Jain, 1512, Bhishm Pitamah Marg  
Wazir Nagar, New Delhi-110 003.
2. Shri V.P. Pandey, Asst. Registrar/CPIO, CESTAT, New Delhi.
3. Office copy

129/5104/RTI/16  
12/1/16

93/CS-16  
11/01/16  
11-02(A)/2016

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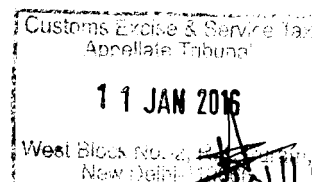
**First Appeal under Section 19 of the Right to Information Act, 2005**

Ref. No. :RTI/P-501/(9511/15, 9512/15 & 9513/15)/Appeal/16114

Dated : 09-01-2016

To

1st Appellate Authority Under RTI ACT, 2005  
Customs, Excise & Service Tax Appellate Tribunal  
West Block 2, R.K. Puram  
New Delhi - 110066



**A. Contact Details :**

1.	Name of the Appellant	R.K. Jain
2.	Address	1512-B, Bhishm Pitamah Marg Wazir Nagar New Delhi-110003

**B. Details About RTI Request :**

1.	Particulars of the CPIO against whose order appeal is preferred	(a) Name	(1) Shri V.P. Pandey, CPIO (2) Shri S.K. Verma, Former CPIO
		(b) Address	Customs Excise & Service Tax Appellate Tribunal, West Block 2, R.K. Puram, New Delhi – 110066
2.	Date of submission of applications (Copy of applications attached)	26-09-2015	
3.	Details of the order appealed against	(i) Letter ID No. 10-188/2015 & 10-220/2015 dated 04-11-2015 (ii) Letter ID No. 10-188/2015 dated 23-11-2015 (iii) Letter ID No. 10-224/188/204/220 dated 01-01-2016 (received on 5-1-2016)	
4.	Prayer or relief sought	See Prayer clause at the end	
5.	Last date for filing the appeal	5-2-2016	
6.	Whether Appeal in Time.	Appeal in time	
7.	Copies of documents relied upon by the applicant	1. Copy of RTI Application (9511) dated 26-9-2015. <b>(Annexure-1)</b> 2. Copy of RTI Application (9512) dated 26-9-2015. <b>(Annexure-2)</b> 3. Copy of RTI Application (9513) dated	

	<p>26-9-2015. <b>(Annexure-3)</b></p> <p>4. Copy of CPIO's Letter ID No. 10-188/2015 &amp; 10-220/2015 dated 04-11-2015 <b>(Annexure-4)</b></p> <p>5. Copy of CPIO's Letter ID No. 10-188/2015 dated 23-11-2015 <b>(Annexure-5)</b></p> <p>6. Copy of CPIO's Letter ID No. 10-224/188/204/220 dated <b>(Annexure-6)</b></p> <p>7. Copy of M/o Finance, D/o Revenue's Sanction Order Non 1/2013 dated 29-11-2013 <b>(Annexure 7)</b></p>
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### BRIEF FACTS OF THE CASE

(1) That the appellant has filed three applications all dated 26-09-2015 **(Annexure 1 to 3)** under Section 6 of the RTI Act, 2005 requesting for the following information:

(A) *As per Ministry of Finance Sanction Order No. 1 of 2013, a sum of Rs.3.45 Crores have been sanctioned for establishment of three new Benches at Chandigarh, Allahabad and Hyderabad and a further sum of Rs. 10 crores per annum has been sanctioned as recurring expenditure for running Six Additional Benches of CESTAT. In this regard, please provide the following information:*

(i) *Please provide head-wise details of the amount spent for the establishment of Chandigarh, Allahabad and Hyderabad Benches during the Financial Years 2013-2104, 2014-2015 and 2015-2016. Please also provide the details and copies of the expenditure for which sanction has already been accorded from time to time from 29th November, 2013 till the date of providing the information.*

(ii) *Please provide datewise details of the amount spent out of Rs. 3.45 crores sanctioned for the establishment of the three new Benches as on 28-9-2015 and the details of the balance amount.*

(iii) *Please provide year-wise details of the amount already spent for the establishment of additional Bench at Chandigarh, Allahabad and Hyderabad as on 28-9-2015.*

(iv) *Please provide head-wise details of the amount spent from the sanctioned fund of Rs.10 crores per annum for running the six*

*Additional Benches during the year 2013-2014, 2014-2015 and 2015-2016. Please also provide the monthwise details and copies of the expenditure for which sanction has already been accorded for making expenditure from the annual recurring expenses of Rs.10 crores from time to time from 29th November, 2013 till the date of providing the information.*

- (v) *Please provide datewise details of the amount spent in each financial year from the annual recurring expenses of Rs. 10 crores. Please provide the head-wise details and also the details about the funds that remained unutilised because of the non-establishment of the Benches.*
- (B) *Please provide details of the steps being taken for making the Additional Benches at Chandigarh, Allahabad and Hyderabad, operational and functional. Please provide copies of the notesheets of the relevant file.*
- (C) *Please provide information whether there has been any proposal or order for diversion of the above funds from one hand to another hand, if so, please provide copies of all notesheets and correspondence pages in this regard.*
- (D) *Please provide the file numbers in which the sanction and expenditure for the Additional Benches of the CESTAT has been dealt with in your office.*

**Note:-Please provide point-wise information/response for each of above points.**

- (2) That the appellant vide para 5 of his said application has also made a declaration that the information sought for is not exempted under Section 8 or 9 of the RTI Act, 2005 and also stated that to the best of the knowledge of the appellant, the information pertains to the Office of the CPIO in question.
- (3) That above RTI applications were replied to by CPIOs CESTAT through common orders/letters on different stages, hence a common appeal is being filed against those orders/letters.

- (4) That CPIO, Shri S.K. Verma and CPIO, Shri V.P. Pandey have deliberately and malafidely not provided complete and correct information as sought by the appellant. The appellant being aggrieved by the said orders of the CPIOs is filing the present appeal. Since the above three applications has been dealt with commonly by the CPIO, hence one 1<sup>st</sup> Appeal is being filed.

**GROUND OF APPEAL**

- (1) That the orders in question of CPIO, Shri S.K. Verma and Shri V.P. Pandey is incorrect and illegal and contrary to the provisions and sprit of the RTI Act, 2005, hence liable to be set aside.
- (2) That the information sought by the appellant is not exempted under Section 8 or 9 or any other provisions of the RTI Act, 2005, therefore, there was no valid cause or reason or ground for not providing the information.
- (3) That Shri S.K. Verma, CPIO vide order dated 04-11-2015 (**Annexure 4**) has deliberately and malafidely provided incorrect, irrelevant and misleading information to appellant on point A of the RTI application. The appellant in this point had referred to Ministry of Finance's Sanction Order No. 1 of 2013 (**Annexure 7**) whereby a sum of Rs. 3.45 crores had been sanctioned for establishment of three new Benches at Chandigarh, Allahabd and Hyderabad and a further sum of Rs. 10 crores per annum had been sanctioned as recurring expenditure for running six additional Benches of CESTAT. However, in response to this point, Shri S.K. Verma, CPIO has provided information regarding budget amount under Office Expenses, which was not even asked for by appellant. Therefore, impugned order is liable to be set aside with the direction to CPIO to provide correct, complete and relevant information to appellant.
- (4) That as for **point (A) (i)**, CPIO, Shri S.K. Verma and CPIO, Shri V.P. Pandey have deliberately and malafidely not provided '**head-wise**' details of amount spent for establishment of Chandigarh, Allahabad and Hyderabad Benches of CESTAT. They have simply provided a statement of expenditure (that too incomplete) without mentioning the amount allocated to each head and the amount which has been spent out of said



allocated amount for the purpose aforementioned. Thus, in effect, the information as sought for in this point has not been provided. The impugned order is, therefore, liable to be set aside with the direction to CPIO to provide to appellant the information as sought for (i.e. head-wise details) in a time bound manner.

- (5) That CPIO, Shri S.K. Verma and CPIO, Shri V.P. Pandey have also deliberately and malafidely provided '**incomplete**' information on point **(A)(i)**. The appellant in this point had sought information for the years 2013-2014, 2014-2015 and 2015-2016. However, the replies (**Annexure 5 & 6**) given by CPIO, Shri S.K. Verma and CPIO, Shri V.P. Pandey respectively do not contain information for the year 2013 in respect of Chandigarh Bench and Allahabad Bench. As for Hyderabad Bench, no information has been provided for the years 2013 and 2014. CPIOs have also not denied the availability of information for said period. Therefore, impugned order is liable to be set aside with the direction to CPIO to provide complete information to appellant in a time bound manner.
- (6) That CPIO, Shri S.K. Verma and CPIO, Shri V.P. Pandey have also deliberately and malafidely **not provided information sought in later part of point (A) (i)** i.e. copies of expenditure for which sanction has already been accorded. Their replies on this part of information are silent which amounts to deemed refusal of information, thereby causing obstruction to flow of information without any reasonable cause. Therefore, the impugned order is liable to be set aside with the direction to CPIO to provide complete and correct information to appellant on this point in a time bound manner.
- (7) That as regards **point (A) (ii)**, CPIO, Shri S.K. Verma and CPIO, Shri V.P. Pandey have deliberately and malafidely not provided information with regard to "**details of balance amount**". Therefore, the impugned order is liable to be set aside with the direction to CPIO to provide complete and correct information to appellant on this point in a time bound manner.
- (8) That CPIO, Shri S.K. Verma and CPIO, Shri V.P. Pandey have deliberately and malafidely not provided information on **point (A) (iv)** on the ground that "Headwise details not maintained in Admn. Section". The

appellant has sought information from the public authority and not from a particular Section of the public authority. CPIOs have not denied the availability of information with the public authority itself which implies that information is available with public authority though not with its Admn. Section. Thus, CPIO could very well have collected the information from the Section where it is available under section 5(4) of the RTI Act and provided it to appellant.

- (9) Moreover, '*maintenance of information*' is not a condition precedent to '*provision of information*'. As long as information is held by or under the control of public authority within the meaning of section 2(j) of the RTI Act, the information is to be provided. Thus, non-maintenance of record is not a valid reason to deny information under the RTI Act as long as information is held by or under the control of public authority. In the present case, none of the CPIO has denied the availability of information. Therefore, the impugned order is liable to be set aside with the direction to CPIO to provide complete and correct information to appellant on this point.
- (10) That CPIO, Shri S.K. Verma and CPIO, Shri V.P. Pandey have also deliberately and malafidely **not provided information sought in later part of point (A) (iv)** i.e. month-wise details and copies of expenditure for which sanction has already been accorded for making expenditure from the annual recurring expense of Rs. 10 crores. In fact, the replies of CPIOs on this part of information is silent which amounts to deemed refusal, thereby causing obstruction to flow of information. Therefore, the impugned order is liable to be set aside with the direction to CPIO to provide complete and correct information to appellant on this point.
- (11) That as for **point (A)(v)**, CPIO, Shri S.K. Verma and CPIO, Shri V.P. Pandey have deliberately and malafidely provided incorrect and misleading information. Their replies to this point state "As above (vide point i)" which means that reply/information given by them in response to point (A)(i) is the reply/information to point (A)(v) as well. In point (A)(i), the appellant had specifically sought information regarding the "*head-wise details of amount spent (out of Rs. 3.45 crores) for the establishment of*"

*three new Benches*”, whereas in point (A)(iv), the information had been sought with regard to the amount spent from the annual recurring expenses of Rs. 10 crores for running the additional Benches. These amounts (Rs. 3.45 crores and Rs. 10 crores) were thus sanctioned for two different purposes i.e. for establishment of Benches and for running the Benches. Thus, their utilization too is required to be made separately in accordance with their purposes. Amount sanctioned for one purpose cannot be used for another purpose. Thus, reply/information given by CPIOs on this point is incorrect and misleading. Therefore, the impugned order is liable to be set aside with the direction to CPIO to provide complete and correct information to appellant on this point.

- (12) That CPIO, Shri S.K. Verma and CPIO, Shri V.P. Pandey have also deliberately and malafidely **not provided information sought in later part of point (A)(v) i.e. head wise details of funds that remained unutilized because of the non-establishment of the Benches.** Instead, they have furnished totally incorrect and misleading information. Their replies to this point reads “As above (vide point i)” which means that reply/information given by them in response to point (A)(i) is the reply/information to point (A)(v) as well. Since the information sought by appellant in point (A)(i) is entirely different from the one which has been sought in point (A)(v), this reply of CPIOs is completely incorrect and false. Therefore, the impugned order is liable to be set aside with the direction to CPIO to provide complete and correct information to appellant on this point.
- (13) That in view of replies given by CPIO, Shri S.K. Verma and CPIO, Shri V.P. Pandey to point (A)(v) above, it is doubtful whether the information given by them in response to points (A)(i), (A)(ii) & (A)(iii) is correct or not, because in these points information was sought regarding “establishment of Benches” for which a sum of Rs. 3.45 crores was sanctioned, whereas in point (A)(v) information was sought about “running the additional Benches” for which amount of Rs. 10 crores was sanctioned. These amounts, having been sanctioned for different purposes, are to be utilized for their respective purposes. Therefore, the

details of their utilization cannot be the same. Moreover, the statement of expenditure furnished by CPIOs in response to point (A)(i) to (iii) does not state as to whether it pertains to amount sanctioned for establishment of Benches or not. In this situation, either the information given by CPIOs on point (A)(i) to (iii) is correct or information given on point (A)(v) is correct. Both cannot be said to be correct. It is, therefore, requested to inquire into the matter and provide correct and factual information to appellant in a time bound manner.

- (14) That as for **point (B)**, CPIO, Shri S.K. Verma and CPIO, Shri V.P. Pandey have deliberately and malafidely not provided complete information. In its order dated 23-11-2015 (Annexure 5), CPIO, Shri S.K. Verma had conveyed to appellant that "Rest (of information) will be submitted as early as possible". However, no such information has been so far provided. The CPIO may, therefore, be directed to provide complete information on this point to appellant.
- (15) That as for **point (C)**, CPIO, Shri S.K. Verma and CPIO, Shri V.P. Pandey have deliberately and malafidely not provided information on the ground that "No such information is available with the Admn. Section". They have failed to appreciate that information has been asked from public authority and not from a particular Section of public authority. They have not denied the availability of information with the public authority itself which implies that information is available with public authority though not with its Admn. Section. Thus, CPIO could very well have collected the information from the Section where it was available and provided it to appellant. He has however failed to do so. Therefore, the impugned order is liable to be set aside and CPIO may be directed to provide the information to the appellant in a time bound manner.
- (16) That the CPIO, Shri S.K. Verma and CPIO, Shri V.P. Pandey have erred in not providing the information to the appellant though as per the provisions of the RTI Act, the appellant is entitled to Information as sought by him. Therefore, the impugned order is liable to be set aside with direction to provide point-wise information to the appellant within time bound frame.

- (17) That Appellant has learnt that the amount of Rs. 3.45 crores sanctioned for the establishment of above additional Benches of CESTAT and further amount of Rs. 10 crores sanctioned as recurring expenditure for running six additional Benches of CESTAT vide Ministry of Finance Sanction Order No 1/2013 has not been properly utilized for the purpose for which it was sanctioned. Therefore, the information sought by appellant is in larger public interest, disclosure of which is warranted under section 8(2) of the RTI Act.
- (18) That the information sought is neither voluminous nor relate to older and larger period, thus could have easily been provided by the learned CPIO.
- (19) That as per proviso to Section 8(1) of the RTI Act, 2005, the information which cannot be denied to the Parliament or the State Legislatures shall not be denied to any person. The information sought by the appellant in the subject application is the one which cannot be denied to the Parliament or the State Legislatures and hence it cannot be denied or refused to the appellant.
- (20) That a personal hearing may be granted to the appellant before deciding the present appeal.
- (21) This is without prejudice to the right of the appellant to add, alter or modify any of the grounds of this appeal and adduce oral or written evidence at the time of hearing or till the appeal is disposed of.

### **PRAYER**

Under the circumstances, the appellant prays as under:

- (a) That the Original Records may be summoned and perused.
- (b) That the impugned order may be set aside to the extent it has been appealed against and CPIO/Deemed CPIOs may be directed to provide the information in question within time bound frame.
- (c) That imposition of penalty may also be recommended against the CPIOs/deemed CPIOs for not providing the complete and correct information.
- (d) That any other relief as the Appellate Authority deem fit and proper may also be ordered in favour of the appellant.

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-10-

- (e) That a personal hearing may be granted to the appellant before deciding the appeal.



Signature of Appellant  
Telephone No. : 9810077977  
24651101  
Fax No. 011-24635243

Place : New Delhi  
Dated : 09-01-2016

Received on 03/08/16

**APPELLATE AUTHORITY**  
UNDER RIGHT TO INFORMATION ACT, 2005  
Customs, Excise & Service Tax Appellate Tribunal  
West Block-2, R.K. Puram, New Delhi-66.

**Appeal No. 11-02(A)/2016**  
**CPIO ID No. 10-188/CESTAT/CPIO-RP/2015**

Shri R.K.Jain ...Appellant

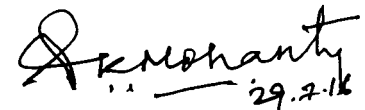
Vs.

CPIO, CESTAT ...Respondent

Date of Hearing/Decision: 19.04.2016

**ORDER** 118/2016

The appellant is pressing for the information with regard to point (C) in the RTI application dated 26.09.2015. Since the information is in the public interest, I am of the view that the same can be furnished. Accordingly, the CPIO is directed to collect the information from the concerned officials and to furnish the same to the appellant within a period of 4 weeks from the date of receipt of the order



(S.K. MOHANTY)

**APPELLATE AUTHORITY**

Copy to:-

1. Shri.R.K.Jain, 1512-B, Bhishm Pitamah Marg, Wazir Nagar, New Delhi-110003, w.r.t. letter No. RTI/P-501/9505/15)/Appeal/16069 dated 07.11.2015
2. CPIO, CESTAT, New Delhi.
3. Office Copy

11-05(A)/2016

340/0616  
09/02/16

①

**First Appeal under Section 19 of the Right to Information Act, 2005**  
**against Deemed Refusal**

138/SCM/RTI/14  
10/2/16

Ref. No. : RTI/P-537/(9627/15)/Appeal/16134

Dated : 08-02-2016

To

1st Appellate Authority Under RTI Act, 2005,  
Customs, Excise & Service Tax Appellate Tribunal,  
West Block 2, R.K. Puram,  
New Delhi - 110066

**A. Contact Details :**

1.	Name of the Appellant	R.K. Jain
2.	Address	1512-B, Bhishm Pitamah Marg Wazir Nagar New Delhi-110003

08 FEB 2016  
9/2

**B. Details About RTI Request :**

1.	Particulars of the CPIO against whose order appeal is preferred	(a) Name Shri V.P. Pandey CPIO & Asst. Registrar
		(b) Address Customs Excise & Service Tax Appellate Tribunal, West Block 2, R.K.Puram, New Delhi - 110066
2.	Date of submission of application (Copy of application attached)	26-12-2015
3.	Details of the order appealed against	Deemed Refusal
4.	Prayer or relief sought	See Prayer clause at the end
5.	Last date for filing the appeal	26-2-2016
6.	If appeal is being filed after 30 days, the reasons which prevented from filing appeal in time	Appeal in time
7.	Copies of documents relied upon by the applicant	1. Copy of RTI Application dated 26-12-2015. <b>(Annexure-1)</b> 2. Copy of CPIO letter dated 22-1-2016. <b>(Annexure-2)</b> 3. Copy of Appellant letter dated 28-1-2016. <b>(Annexure-3)</b>

B/  
10/2/16



### BRIEF FACTS OF THE CASE

- (1) That the appellant has filed an application dated 26-12-2015 (**Annexure – 1**) under Section 6 of the RTI Act, 2005 requesting for the following information:
- (A) *Please provide copies of all records of proceedings and orders except final order passed in the following appeals and also copies of all the Vakalatnamas and Notesheets put up by the Registry and orders thereon. Please also provide copy of the mention memo, if any and direction for out of turn listing / hearing of the matter*
- (i) *Appeal No. ST/326/2006 [Anil Kumar Agnihotri vs. CCE, Kanpur (10.4.2013 - Item 36)]*
- (ii) *Appeal No. ST/327/2006 [Ajay Kumar Gupta vs. CCE, Kanpur (10.4.2013 - Item 37)]*
- (iii) *Appeal No. ST/310/2012 [M/s. Electromec Engg. Enterprises & Nishant Elect. vs. CCE, Meerut-II (10.4.2013 - Item 40)]*
- (iv) *Appeal No. ST/97/2008 [M.L. Gupta vs. CCE, Jaipur (10.4.2013 - Item 41)]*
- (v) *Appeal No. ST/691/2008 [CCE, Raipur vs. BSNL(10.4.2013 - Item 44)]*
- (vi) *Appeal No. ST/829/2008 [CCE, Raipur vs. S.Pritam Singh, Transport (10.4.2013 - Item 45)]*
- (vii) *Appeal No. ST/24/12(BSNL Vs. Commissioner of Service Tax)*
- (B) *Please also provide print copy of the Computer generated report from the CESTAT data base containing details of the Case History, Application History, Appeal/Application details etc. with diary no and impugned order details in relation to each of the above cases.*
- (C) *Please provide the current status of the aforesaid appeals and next date of hearing, if any.*
- (2) That the appellant vide para 5 of his said application has also made a declaration that the information sought for is not exempted under Section 8 or 9 of the RTI Act, 2005 and also stated that to the best of the knowledge of the appellant, the information pertains to the Office of the CPIO in question.

- (3) That the appellant received letter dated 22-1-2016 (**Annexure-2**) of CPIO CESTAT, New Delhi to DR, Customs, CESTAT, New Delhi. The Appellant vide letter dated 28-1-2016 (**Annexure-3**) requested the said authority to provide the desired information within the period of 30 days as stipulated under Section 7(1) of the RTI Act, 2005. The Appellant has neither received any information nor any response from the said authority therefore, as per Section 7(2) of the RTI Act, 2005, the request for information shall be deemed to have been refused. Thus being aggrieved by such refusal, this Appeal.

### **GROUND OF APPEAL**

- (1) That the action of the learned CPIO and the deemed CPIO in not providing the information to the appellant is illegal and contrary to the provisions and spirit of the RTI Act, 2005.
- (2) That the information sought by the appellant is not exempted under Section 8 or 9 or any other provisions of the RTI Act, 2005 and therefore, there was no valid cause or reason or ground for not providing the information.
- (3) That the inaction of Shri V.P. Pandey, CPIO & Assistant Registrar is in violation of Sections 7(1) and 7(2) of the RTI Act, 2005 and is therefore, illegal. Such inaction is deemed to be a refusal to the request of the appellant without any reasonable cause or ground hence is illegal.
- (4) That the information sought is neither voluminous nor relate to older and larger period, thus could have easily been provided by the learned CPIO.
- (5) That the appellant is citizen of India and fulfilled all other requirements of the RTI Act and the Rules made thereunder and is entitled to the information in question.
- (6) That as per proviso to Section 8(1) of the RTI Act, 2005, the information which can not be denied to the Parliament or the State Legislatures shall not be denied to any person. The information sought by the appellant in the subject application is the one which cannot be denied to the Parliament or the State Legislatures and hence it cannot be denied or refused to the appellant.

- (7) This is without prejudice to the right of the appellant to add, alter or modify any of the grounds of this appeal and adduce oral or written evidence at the time of hearing.
- (8) That a personal hearing may be granted to the appellant before deciding the present appeal.
- (9) This is without prejudice to the right of the appellant to add, alter or modify any of the grounds of this appeal and adduce oral or written evidence at the time of hearing or till the appeal is disposed of.

**PRAYER**

Under the circumstances, the appellant prays as under:

- (a) That the Original Records may be summoned and perused.
- (b) That the CPIO may be directed to provide the information in question within a time bound frame.
- (c) That any other relief as the Appellate Authority deem fit and proper may also be ordered in favour of the appellant.
- (d) That a personal hearing may be granted to the appellant before deciding the appeal.



Signature of Appellant  
Telephone No. : 9810077977  
24651101  
Fax No. 011-24635243

Place : New Delhi  
Dated : 08-02-2016

